

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1989**

No. 5

INT. 1138

By: The Vice Chairman (Council Member Vallone) and Council Members DeMarco, Crispino, Berman, Spigner, Dryfoos, Greitzer, O'Donovan, Molinari, Leffler and Maloney; also Council Members Alter, Castaneira Colon, Dear, DiBrienza, Eisland, Foster, Gerges, Horwitz, Lisa, McCaffrey, Michels, Pinkett, Povman, Robles, Ward and Williams.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to enhancing the powers of the police commissioner with respect to public nuisances.

Be it enacted by the Council as follows:

Section one. Legislative Intent. The Council finds that Local Law 42 of 1984 was enacted to authorize the police commissioner to sanction and penalize public nuisances: establishments and property operated or used in violation of penal laws relating to prostitution, gambling, controlled substances, dangerous drugs, stolen property, and laws relating to the sale and consumption of alcoholic beverages. The Council hereby reaffirms its previous finding that such public nuisances continue to exist in the city of New York and have a detrimental effect on the public health, safety and welfare and further have a negative effect on the quality of life and total community environment. The Council further finds that the usefulness of Local Law 42 of 1984 in removing public nuisances have been curtailed by the requirement that violations of the penal and other specified laws result in two or more criminal convictions within a twelve-month period. It has often proved difficult to obtain two convictions within this time frame because of delays in the criminal proceedings. It is the intention of the Council to remove this impediment to the use of Local Law 42 in prohibiting the continued existence of public nuisances in the city of New York by requiring one conviction and one arrest as a precondition to the use of this provision.

§2. Section 10-155 of chapter one of title ten of the administrative code of the city of New York is hereby amended as follows:

§10-155 Public nuisance defined. For the purpose of this section and section 10-156 of this chapter, the following are declared to be public nuisances:

a. Any building, erection or place where violations of any of the provisions of article two hundred thirty of the penal law are occurring and where two or more violations of such provisions which have resulted in [two] *one* or more criminal convictions *and one or more arrests* have occurred within the twelve month period of time prior to the commencement of a proceeding pursuant to section 10-156 of this chapter. It shall be prima facie evidence that violations are occurring where an arrest for a violation of any of the provisions of such article has been within thirty days prior to the issuance of notice pursuant to section 10-156 of this chapter.

b. Any building, erection or place where violatons of any of the provisions of article two hundred twenty, two hundred twenty-one or two hundred twenty-five of the penal law are occurring and where two or more violations of such provisions which have resulted in [two] *one* or more criminal convictions *and one or more arrests* have occurred within the twelve month period of time prior to the commencement of a proceeding pursuant to section 10-156 of this chapter. It shall be prima facie evidence that violations are occurring where an arrest for a violation of any of the

provisions of such articles has been made within thirty days prior to the issuance of notice pursuant to section 10-156 of this chapter.

c. Any building, erection or place where violations of any of the unlawful activities set forth in section one hundred twenty-three of the alcoholic beverage control law are occurring and where two or more violations of such provisions which have resulted in [two] *one* or more criminal convictions *and one or more arrests* have occurred within the twelve month period of time prior to the commencement of a proceeding pursuant to section 10-156 of this chapter. It shall be prima facie evidence that violations are occurring where an arrest for a violation of any of the unlawful activities set forth in such section has been made within thirty days prior to the issuance of notice pursuant to section 10-156 of this chapter.

d. Any building, erection or place where violations of any of the provisions of section 165.40, 165.45, 165.50, 170.65, 170.70, or 175.10 of the penal law or section four hundred fifteen-a of the vehicle and traffic law are occurring and where two or more violations of such provisions which have resulted in [two] *one* or more criminal convictions *and one or more arrests* have occurred within the twelve month period of time prior to the commencement of a proceeding pursuant to section 10-156 of this chapter. It shall be prima facie evidence that violations are occurring where an arrest for a violation of any of the provisions of such sections has been made within thirty days prior to the issuance of notice pursuant to section 10-156 of this chapter.

e. For the purposes of this section, "conviction" shall be defined and applied in accordance with the provisions of section 1.20 of the criminal procedure law.

§3. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on January 19, 1989, and approved by the Mayor on February 3, 1989.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed local law (Local Law 5 of 1989, Council Int. No. 1138) contains the correct text and:

Received the following vote at the meeting of the New York City Council on January 19, 1989;
31 for, 0 against

Was approved by the Mayor on February 3, 1989.

Was returned to the City Clerk on February 6, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel